

APPEAL

**United States District Court
District of Massachusetts (Boston)
CIVIL DOCKET FOR CASE #: 1:04-cv-11025-JLT**

Benjamin v. Spencer
Assigned to: Judge Joseph L. Tauro
Cause: 28:2254 Petition for Writ of Habeas
Corpus (State)

Date Filed: 05/20/2004
Jury Demand: None
Nature of Suit: 530 Habeas
Corpus (General)
Jurisdiction: Federal Question

Petitioner**Ernest N. Benjamin**

represented by **Ernest N. Benjamin**
W61272
MCI Norfolk
P.O. Box 43
Norfolk, MA 02056
PRO SE

V.

Respondent**Luis Spencer**
Superintendent

represented by **Eva M. Badway**
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LEAD ATTORNEY
ATTORNEY TO BE
NOTICED

Date Filed	#	Docket Text
05/20/2004	<u>1</u>	MOTION for Leave to Proceed in forma pauperis by Ernest N. Benjamin.(Jenness, Susan) (Entered: 05/21/2004)
05/20/2004	<u>2</u>	PETITION for writ of habeas corpus pursuant to 28:2254, filed by Ernest N. Benjamin.(Jenness, Susan) (Entered: 05/21/2004)
05/20/2004		Filing fee: \$ 5, receipt number 56771 regarding Petition for Writ of Habeas Corpus (Abaid, Kim) (Entered: 06/21/2004)
05/21/2004		If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Collings. (Jenness, Susan) (Entered: 05/21/2004)
05/21/2004		Case undergoing preliminary screening (Jenness, Susan) (Entered: 05/21/2004)
06/02/2004	<u>3</u>	Judge Patti B. Saris : ORDER entered REASSIGNING CASE. Case reassigned to Judge Joseph L. Tauro for all further proceedings. Judge Patti B. Saris no longer assigned to case. Counsel are directed to the Court's Standing Orders re: Electronic Case Filing.(Weissman, Linn) (Entered: 06/08/2004)
06/07/2004	<u>4</u>	Judge Joseph L. Tauro : ORDER entered denying <u>1</u> Motion for Leave to Proceed in forma pauperis without prejudice. Petitioner has failed to submit a prison account statement as required. It is FURTHER ORDERED that petitioner must pay the \$5.00 filing fee or submit a new Application to Proceed Without Prepayment of Fees with a prison account statement within 42 days of the date of this Order or this case will be dismissed without prejudice. (Weissman, Linn) (Entered: 06/08/2004)

06/07/2004	<u>5</u>	Judge Joseph L. Tauro : SERVICE ORDER entered re: 2254 Petition. Order entered pursuant to R.4 of the Rules governing Section 2254 cases for service on respondent. Answer/responsive pleading due w/in 20 days of rcpt of this order.(Weissman, Linn) (Entered: 06/08/2004)
06/07/2004	<u>6</u>	Notice of Reassignment. (Weissman, Linn) (Entered: 06/08/2004)
06/07/2004	•	Set Deadlines/Hearings: Payment of \$5 filing fee or filing of new application to proceed without prepayment of fees due by 7/19/2004. (Weissman, Linn) (Entered: 06/08/2004)
06/10/2004	•	Return receipt received for mail sent to Luis Spencer Delivered on June 9, 2004 (Abaid, Kim) (Entered: 06/10/2004)
06/14/2004	•	Return receipt received for mail sent to Cathryn A. Neaves, Esq Delivered on June 9, 2004. (Abaid, Kim) (Entered: 06/15/2004)
06/29/2004	<u>7</u>	NOTICE of Appearance by Eva M. Badway on behalf of Luis Spencer (Abaid, Kim) (Entered: 06/30/2004)
06/29/2004	<u>8</u>	MOTION to Dismiss by Luis Spencer.(Abaid, Kim) (Entered: 06/30/2004)
06/29/2004	<u>9</u>	MEMORANDUM in Support re <u>8</u> MOTION to Dismiss filed by Luis Spencer. (Abaid, Kim) (Entered: 06/30/2004)
07/16/2004	<u>10</u>	Opposition re <u>8</u> MOTION to Dismiss filed by Ernest N. Benjamin. (Abaid, Kim) (Entered: 07/20/2004)
08/19/2004	<u>11</u>	Judge Joseph L. Tauro : ORDER entered REFERRING CASE to Magistrate Judge Robert B. Collings Referred for: Report and Recommendations on Motion to Dismiss(Abaid, Kim) (Entered: 08/19/2004)

01/11/2005	<u>12</u>	MOTION to Appoint Counsel by Ernest N. Benjamin. (Jenness, Susan) (Entered: 01/18/2005)
01/11/2005	<u>13</u>	AFFIDAVIT of Mr. Benjamin in Support re <u>12</u> MOTION to Appoint Counsel. (Jenness, Susan) (Entered: 01/18/2005)
02/07/2005	<u>14</u>	Judge Robert B. Collings : REPORT AND RECOMMENDATIONS re <u>8</u> MOTION to Dismiss filed by Luis Spencer; Recommendation: Judgment enter dismissing instant matter; and RECOMMEND that Judgment enter dismissing second petition on the merits in CA01-10748-JLT. Objections to R&R due by 2/22/2005.(Dolan, Kathleen) (Entered: 02/07/2005)
02/07/2005		Case no longer referred to Magistrate Judge Robert B. Collings. (Dolan, Kathleen) (Entered: 02/07/2005)
02/14/2005	<u>15</u>	OBJECTION to <u>14</u> Report and Recommendations filed by Ernest N. Benjamin. (Abaid, Kim) (Entered: 02/15/2005)
03/22/2005		Judge Joseph L. Tauro : Electronic ORDER entered. ORDER ADOPTING REPORT AND RECOMMENDATIONS for <u>14</u> Report and Recommendations, Action on motion: <u>8</u> Motion to dismiss is allowed.(Abaid, Kim) (Entered: 03/31/2005)
03/30/2005		Motions terminated: <u>8</u> MOTION to Dismiss filed by Luis Spencer,. (Lovett, Zita) (Entered: 03/30/2005)
04/18/2005	<u>16</u>	NOTICE OF APPEAL as to Order Adopting Report and Recommendations by Ernest N. Benjamin. NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at http://www.ca1.uscourts.gov/clerks/transcript.htm MUST be completed and submitted to the Court of Appeals. Appeal Record due by 5/9/2005. (Abaid, Kim) (Entered: 04/20/2005)

